In the High Court of Uttaranchal at Nainital.

Criminal Revision No. 105/2004

Sarfaraj @ Bhura ...Revisionist.

Vs.

State of Uttaranchal …Respondents.

Hon'ble Irshad Hussain, J.

Heard Sri Lok Pal Singh learned counsel for the revisionist and Sri D.K. Sharma, learned G.A. and perused the record.

This revision has been filed against the judgment and order dated 17-06-2004 passed by the III F.T.C./Additional Sessions Judge, Haridwar in sessions trial no. 177 of 2003 State vs. Haroon and others under sections 376(G), 366, 506 I.P.C., P.S. Bhagwanpur, District Haridwar.

The F.I.R. was lodged against four persons and after investigation charge sheet was submitted against two persons namely Haroon S/o Kayum and Israr. When the trial commenced application under section 319 of the Code of Criminal Procedure (for short 'Code') was moved on behalf of the prosecution and the learned Additional Sessions Judge by the impugned order was of the view that there was sufficient ground to proceed against the other two accused namely Haroon S/o Rafiq, and Sarfaraj, the present revisionist and issued process against them. Learned counsel for the revisionist submitted that there was delay of 13 days in lodging the F.I.R. and that the medical evidence does not corroborate the prosecution version in regard to the alleged rape. At this stage the court will not take into account these aspects of the matter because after investigation charge sheet has been submitted against the two other co-accused and any observation may hamper the proper prosecution of the case against the other two accused.

It is not in dispute that the revisionist and another accused Haroon S/o Rafiq were also named as co-accused and Smt. Sahfana in her statement under section 161 of the 'Code' supported

prosecution version about her abduction and rape committed by the revisionist and others.

Considering the material on record the learned Sessions Judge was fully justified to pass an order to summon them to stand trial along with other two co-accused who were charge sheeted. The impugned order is just and proper and need no interference in the revisional jurisdiction of the court. Therefore, the revision is dismissed in limine.

(Irshad Hussain, J.)

Dated: 28-06-2004

ISB